



COMMUNITY DEVELOPMENT DEPARTMENT

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Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 25, 2011

PRESENT: Mueller, Moniz, Koepp-Baker, Benich

ABSENT: Tanda

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Senior Planner (SP) Tolentino, Senior Civil Engineer (SCE) Creer and Development Services Technician (DST) Bassett

Chair Mueller called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

MINUTES:

January 11, 2011

COMMISSIONERS KOEPP-BAKER AND BENICH MOTIONED TO APPROVE THE JANUARY 11, 2011 MINUTES WITH THE FOLLOWING REVISIONS:

Page 4, Para 9: Mueller: I'm concerned about the new intersection on Walnut Grove Drive. That is already a congested area. The sight **line** isn't very good there because of cars that back up in the turn lanes and cars coming out of the residential area.

Page 7, Para 1: Rowe: To get two points you have to upgrade the water service, and this project isn't offering that. But staff would support the 1.5 points for the portion of the project in this competition. **(The Commissioners indicated consensus in giving 1.5 points for Water in Part A.)**

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THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA

ORDERS OF THE DAY

Agenda Items 2 and 3 were moved forward.

PUBLIC HEARINGS:

2) TRANSFER OF DEVELOPMENT CREDITS, TDC-10-01: ROLLING HILLS-NAKAMARA:

A request for approval of Transfer of Development Credits from a 57 acre parcel located at the end of Rolling Hills Dr. The request is for the transfer of nine development credits in exchange for the recordation of an open space easement on 45 acres. (APN 764-02-003)

Linder presented her staff report and stated that 9 credits could be assigned to this property once an open space easement is recorded.

Benich: The 12 acres is near the top of the hill, but I thought there were already restrictions that do not allow homes to be built above a certain elevation.

Linder: The TDC is a way for a landowner to offset the loss of development potential by restricting development on slopes in excess of 20 percent. It is a way to compensate the owner for the space that is deemed undevelopable by the hillside ordinance.

Mueller opened the floor to public comment.

Bill McClintock of MH Engineering appeared on behalf of the applicant.

Mueller closed the floor to public comment.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE TRANSFER DEVELOPMENTS CREDITS

THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA

3) SUBDIVISION, SD-09-08/ DEVELOPMENT AGREEMENT, DA-09-06/ ZONING AMENDMENT, ZA-09-09: CENTRAL-UCP:

A request for approval of a precise development plan, Development Agreement and subdivision approval on a 4.73 acre site located on the south side of East Central Avenue between Calle Mazatan and Butterfield Boulevard. The proposed project is a 32 lot single family residential development. The proposed zoning amendment is from R-2 (3,500)/RPD, Multi-Family Low Residential Planned Development to R-1 (4,500)/PD, Single Family High Planned Development zoning district. (APN 726-22- 056)

Rowe presented his staff report and asked that the item be continued to February 8, 2011.

Mueller opened and closed the floor to public comment.

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COMMISSIONERS KOEPP-BAKER AND MONIZ MOTIONED TO CONTINUE THE ITEM TO FEBRUARY 8, 2011

THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:

AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA

CONTINUED
PUBLIC
HEARINGS:

1)GENERAL PLAN
AMENDMENT,
GPA-10-04/ ZONING
AMENDMENT,
ZA-10-02/
ENVIRONMENTAL
ASSESSMENT,
EA-10-11: E.
DUNNE-CVS:

The applicant is requesting to amend the General Plan Land Use and Zoning designations on an approximate two-acre site from Industrial and ML, Light Industrial, to Commercial and CG, General Commercial, respectively. The purpose of the General Plan and Zoning changes is to allow for the construction of a new CVS/Pharmacy with a drive-up window on the subject site. A mitigated Negative Declaration is proposed. (APNs 817-11-030 and a portion of 817-11-057).

Tolentino presented her staff report and noted four supplemental items:

- A. Email from Commissioner Tanda;
- B. Comment Letter from William B. Connors, Municipal Legal Consultant;
- C. Comment Letter from Elizabeth S. Anderson for Sheppard, Mullin, Richter & Hampton, LLP; and
- D. Memorandum from Akoni Danielsen of David J. Powers & Associates regarding Responses to Comments on Draft Mitigated Negative Declaration

Akoni Danielsen of David J. Powers and Associates [environmental consultants] addressed the traffic and air quality impacts referenced in the two public comment letters received by the City. The traffic impacts have been disclosed, the mitigations have been identified, and air quality emissions have been evaluated. The project is at 30 percent of the minimum levels that would require a detailed air quality analysis. It is true that vehicles will have to go a block further east to make a U-turn, but the redirected traffic will still result in a less than significant impact to air quality. We do not believe an EIR is required. Signalization of the intersection at Joleen could fix the problem but we believe it is not a good idea.

Franziska Church of Fehr & Peers Transportation Consultants appeared: There are three mitigation measures that could address the Levels of Service (LOS) impact at the Joleen intersection. One measure would be to install a signal at Joleen Way, but this will be too close to the Walnut Grove signal and will cause problems. The other measures are to permanently restrict the left-hand turn from Joleen onto E. Dunne with a median, or to restrict the left turn during the peak evening hours, though the city would have to monitor this option.

Moniz: In your TIA did you study the movements of trailers in addition to regular vehicles?

Church: We did look at that and it is most likely that those vehicles will not be able to make that U-turn.

Moniz: In your study, do you identify the different vehicle types, or just vehicles in general?

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Church: We just talk about vehicles generally.

Mueller: There is an illegal maneuver happening there where cars are using the bike lane to go all the way to Walnut Grove Drive. They're starting in that lane before Joleen Way and going all the way to Walnut Grove. Could some sort of pop out be done that would allow bikes to get through and stop cars from getting into the right lane before they should?

Church: I think it's something you can consider, but I don't know the feasibility of it to maintain roadway standards without knowing the dimensions.

Koepp-Baker: Did your traffic study look at using the parking lot of CVS as a go-between to get to Walnut Grove from Joleen?

Church: We did look at that, but we believe the route is circuitous enough that it won't be an issue. But it should be monitored.

Mueller opened the public hearing.

Robert Lyman of Johnson Lyman Architects appeared on behalf of the applicant: To answer a question from the previous meeting, the number of employees at the new store will be comparable to the present store. To respond to some of the letters, they do not contain substantial evidence that the mitigation measure is inadequate and therefore requires an EIR. They are the opinions of people who are not qualified as traffic experts. We would ask the Commission to follow the recommendations of staff.

Bill Conners, the husband of a property owner on Joleen Way, appeared and stated they support CVS/Pharmacy at that location but only if the traffic mitigation is feasible to other users on the street. We received no notice of this meeting. None of this information was online when I drafted my letter. I am a practicing attorney and I was the city attorney for the City of Monterey. I have been to many Planning Commission meetings. Common sense dictates that certain things proposed tonight will not work, such as a limited time for turning left. Signs do not work. Also, a large trucker will not be able to get in the left turn lane and make a U-turn, so drivers will make illegal moves. CVS does not want to pay for an EIR. That would require a traffic study. What has been done is not a traffic study; it is just a traffic review. That intersection desperately needs a signal that could be timed with the Walnut Grove signal. You have to do an EIR if there is a cumulative impact, which is more than one. Here we have four. We have no opposition if a signal will be installed. Otherwise, we believe an EIR with an actual study is required.

Moniz: Could staff please respond to Mr. Connor's statement that they did not get notice?

Tolentino: We did send notice to all property owners within 300 feet, and then we sent letters to anyone with an active business license on Joleen Way. The environmental documents and staff report were posted online.

Mueller: There were two notices. The first was to the property owners and that one

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went out two to three weeks ago. The other was to the business owners.

Conners: My wife never received it.

Robert Yates, a Morgan Hill resident appeared: A light there is very necessary. Anything else won't work. It will be too dangerous. You'll have to hire police officers to be there 24 hours a day. There is a lot of traffic there.

Richard Lopes, a business owner on Joleen Way, appeared: We are not opposed to the zoning change but we are opposed to a blockage of the left-hand turn. I have 11 employees and only 1 of them would go east. There is a fair amount of traffic from both employees and customers of businesses on that street. There will be at least 7 cars backed up at several peak times throughout the day. I don't know if a light there is feasible but I believe there are excellent traffic control programs that could be used. There are a fair amount of automobile centers on Joleen Way. They have traffic all day, every day. The other tenant in my building has 5 or 6 tow trucks every day. They will not be able to make the U-turn. This is also probably going to be a problem for emergency responders. It is a serious issue to consider. It will become a bigger mess than it already is if you prevent left-hand turns. I would strongly urge that left-hand turns be allowed to continue and a refuge lane be installed. I have never seen an accident at the Joleen intersection and I go in and out several times a day; but I have seen accidents at Walnut Grove. If you make Walnut Grove even more congested, there will be more accidents. So I would urge Option 4 [*making reference to Exhibit 3, Mitigation Option #4: Refuge Lane, of the staff report*] with a "Keep Clear" section.

Marni Moseley, an owner on San Benancio Way, appeared: Because of where I live, I am at this intersection many times a day. It is a busy area and there are probably no easy solutions. But I would like to see where the need is for a drive-through pharmacy at all, which is presumably the reason CVS wants this new site. Walgreens is right across the street. I hardly ever see cars in their drive-through. Has there been anything to justify this building just for a drive-through. I would also like to see architecture that is more in tune with our city—something like Trader Joe's did.

Mueller closed the floor to public comment. He then called for a break at 7:55 and reconvened at 8:05 pm.

Discussion:

Mueller: One gentleman raised the issue of emergency response vehicles. The closest EMT location is Hill and Dunne, so that would be coming from the east.

Tolentino: We reviewed the notification list. We are required to give notice to property owners within 300 feet. Mr. Conner's property is outside the 300 foot boundary, so he did not get notice. He has asked for notice of all future meetings so we will add him to the list.

Mueller: Someone asked about cumulative impacts. Could we have that addressed?

Danielsen: The suggestion was that the emissions and the increased travel lengths

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in combination would be a significant cumulative impact. The Bay Area Air Quality Management District (BAAQMD) has set thresholds to establish whether a project will have cumulative impacts. We have evaluated this project for cumulative air effect. There is no cumulative air impact issue. With respect to traffic, there was the suggestion that city would have required a more in depth analysis if they had prepared an EIR. That is backwards. The traffic is scoped according to the Valley Transportation Authority (VTA) guidelines and the city's guidelines. The scope of the traffic report is independent of whether you do an initial study or an EIR. If there is an impact you look to see if it can be mitigated. If it can't, then an EIR would have to be prepared.

Benich: I am very pleased to see that we took the step at the last meeting to have the business owners notified. We could have made a decision last week, but we held off. We followed the spirit of the law and that is good. After reviewing all the reports and letters, I don't believe we can restrict the left-hand turn. I am in favor of doing a restricted left-hand turn during certain hours. I am also concerned about closing the existing CVS but I understand that's a business decision. But if they build this new site, I believe we can do a lot to improve the architecture and the look of that block.

Koepp-Baker: I am still concerned about the traffic on Walnut Grove and what happens if people come through the CVS parking lot from Joleen Way and want to go left onto Walnut Grove. That is already a very messy area because of people wanting to get into the shopping center.

Church: There is a queue for cars there and we believe that cars turning left onto Walnut Grove won't have a problem seeing when they can go left.

Mueller: Was that queue studied as part of this analysis?

Church: No.

Moniz: First, you might have sight lines, but not including that impact in the study makes it a flawed analysis. Second, in listening to tonight's arguments, I could support Exhibit 2 *[referring to Exhibit 2, Mitigation Option #2: PM Peak Left-Turn Restriction, of the staff report]* if a refuge lane could be added off Joleen Way. Installing a pork chop so that bikes could pass through would also be good.

Koepp-Baker: I would also like to see a combination of Option 2 and an extended refuge lane.

Mueller: The initial study did not look at the restricted hours for turning left. How would you deal with that?

Danielsen: This is a refinement of the mitigation that is already identified in the study, which stopped the left turn from Joleen Way entirely. This is just less restrictive and is more narrowly tailored for the peak hour problems. I don't think this would trigger recirculation. I think you could go ahead and make this recommendation to the council.

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Mueller: In the staff report, would there be proposed language for the Initial Study and a modification to the monitoring plan?

Danielsen: If the Commission is in support of that, we could add language saying that this was from feedback received after circulation.

Mueller: Is there language that would give us the option to look at this again in six months?

Danielsen: Yes.

Koepp-Baker: So we could have the option to attempt to restrict drivers passively by the signage and then if you find that after six months they're breaking the rules, you could then require the applicant to create the physical barrier?

Danielsen: It's phrased as a contingency. If it's identified after six months that it's not working, then the city could require the applicant to implement the physical barrier.

Mueller: I believe what I've heard is that a refuge lane should be installed as part of the mitigation measure. Turning left there requires that a car make it through three lanes of traffic and if there are cars turning right that are in the bike lane, then that actually makes it four. How could we prevent people from using the bike lane as a turn lane?

Creer: We had almost the identical problem Monterey Road at the old West Edmundson Avenue intersection where the former Burger King was. By eliminating the left turn we solved that problem. The potential would be to bulb out the southeasterly corner and leave a 5 foot bike lane adjacent to the travel lane.

Mueller: I would be more comfortable if we could add that bulb to this alternative refinement. So we're going to ask for a refinement of the Initial Study, a refinement of the mitigation measure to allow left turns out of Joleen, but restrict left turns between 4:00 and 7:00 pm, and we'll ask that the refuge lane be extended and ask for a bulb-out on the CVS side of Joleen/Dunne that would still allow a bike path to run through there, and that would be in the refined mitigated negative declaration and the monitoring plan.

Koepp-Baker: That would keep quite a few cars from making that bike lane a fourth lane.

COMMISSIONERS BENICH AND KOEPP-BAKER MOTIONED TO ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM WITH THE REFINEMENTS AS DISCUSSED INCLUDING A REFINED INITIAL STUDY AND TRAFFIC MITIGATION MEASURE REQUIRING THE FOLLOWING: POSTED RESTRICTED LEFT-TURN MOVEMENTS FROM JOLEEN WAY ONTO E. DUNNE AVE. BETWEEN THE HOURS OF 4PM AND 7PM; RAISED MEDIAN PREVENTING ILLEGAL MOVEMENTS FROM EASTBOUND DUNNE AVE. INTO THE

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WALGREENS PARKING LOT; REFUGE LANE WITHIN THE EXISTING E. DUNNE AVE. MEDIAN AND BULB-OUT ON THE SOUTHEAST CORNER OF THE JOLEEN WAY/DUNNE AVENUE INTERSECTION TO PREVENT VEHICLES FROM TRAVELLING IN THE BIKE LANE.

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA**

BENICH AND KOEPP-BAKER MOTIONED TO ADOPT THE RESOLUTION RECOMMENDING APPROVAL OF A GENERAL PLAN CHANGE FROM INDUSTRIAL TO COMMERCIAL.

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA**

BENICH AND KOEPP-BAKER MOTIONED TO ADOPT THE RESOLUTION RECOMMENDING APPROVAL OF A ZONING CHANGE FROM ML, LIGHT INDUSTRIAL TO CG, GENERAL COMMERCIAL.

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA**

Mueller: While we're monitoring the Joleen Way intersection, we also need to watch the Walnut Grove intersection.

4) AMENDMENT,
SDA-09-05/
ZONING
AMENDMENT,
ZAA-04-21:
E. DUNNE-JASPER
PARK:

A request to amend the precise development plan and subdivision approval on an 8 acre area with the Jasper Park project located on the south side of East Dunne Ave., 100 ft. west of the San Benancio Way intersection. The requested amendments include adjustment to the lots sizes, open space and incorporation of single family detached homes. (APN 817-11-038 & 817-11-017)

Linder presented her staff report: In trying to apply the new R1-4,500 zoning, the applicant has come with a new proposed plan. We asked for a continuance to analyze the site and in doing so realized we have a 56% FAR, We actually felt that 52% FAR would be ideal, considering the existing development, but we didn't want to create a strict 52% FAR for each lot, even with the increase in lot sizes. We felt 54% would be a fair compromise. Applicant agrees with the recommendation, so we would add language to the PUD that applicant would need to meet a 54% FAR.

Moniz: What does that mean in square footage?

Linder: That would mean 2, 700 square feet on average.

Benich: Did you look at the aesthetics of the project? It seems it's a less attractive design now.

Linder: You still have the same amount of open space as the original plan. I saw the pocket park as more of a security issue. It was very deep and narrow so I didn't see it as beneficial to the residents.

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Benich: If I were a property owner I would rather have the original plan.

Linder: But in spreading the homes out, you'll get a better streetscape, so I think it was a good trade.

Mueller opened the floor to public comment.

Marni Moseley, a resident of the subdivision, appeared and stated that the new plan is better than the original one. The current open space is used more by people from outside of the development than those within it, so we'd like to see a fence installed, particularly so our kids can have a place to play. It would mostly be around the open space. We would like that before the issuance of building permits.

Scott Schilling of Benchmark Properties appeared on behalf of the project: In the staff presentation Terry may have meant 60 percent instead of 50 percent FAR. In terms of the existing neighborhood, we are not opposed to installing a fence and working with the association on that. This is a bit of a challenge because we need to install the street improvements. We'd probably like to protect the construction area with cyclone fencing and then have the wrought iron fencing be conditioned on Certificate of Occupancy for certain units. We'd also like to get the landscaping in at the beginning.

Mueller: Could you do cyclone fencing on one side and park fence on the other side?

Schilling: Yes, we could do the wrought iron in areas where we wouldn't have to deal with improvements and cyclone fencing around the construction.

Mueller: So we could do a condition for you to work with the HOA on the fencing and you're amenable to the 54% FAR and the requirement for a new model?

Schilling: Yes.

Mueller closed the floor to public comment.

Moniz and Mueller disclosed that they met with the applicant during the prior week.

Mueller: I am concerned that we're compromising the standards on the new R1-4,500 because this is an existing, half-built subdivision. But with the new subdivisions, we're going to need to stick with the established FAR.

Koepp-Baker: This looks like it blends the two zoning types very well.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED FOR A RESOLUTION TO APPROVE THE PRECISE DEVELOPMENT PLAN AND TO WORK WITH THE HOA TO INSTALL WROUGHT IRON FENCING AROUND THE COMMON OPEN SPACE

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:**

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TANDA.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE SUBDIVISION

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
TANDA.**

**OTHER
BUSINESS:**

**5) RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)
THIRD
QUARTERLY
REPORT FOR
2010:**

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System.

Rowe presented his staff report and stated that some market recovery has begun to occur.

Koepp-Baker: When we send a letter to the developer that is behind, do we ask for a response?

Bassett: Yes, we ask for a response, we give a deadline, provide forms for getting the extension and let them know what the fee is.

Koepp-Baker: So there will be a lot of letters going out for projects with June 30, 2011, commence construction deadlines?

Bassett: Correct.

Mueller: The census figures will also have an impact on the population cap and the number of available allotments. It seems we ought to request that the two projects that have done nothing, E. Dunne-Mendoza and Monterey-Liou, be asked to appear and answer regarding their intentions for their projects.

COMMISSIONERS KOEPP-BAKER AND BENICH MOTIONED TO FORWARD THE REPORT TO COUNCIL.

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: TANDA**

**ANNOUNCEMENTS/
COMMISSIONER
IDENTIFIED ISSUES**

The California High Speed Rail (HSR) will be hosting two workshops. One was tonight in Gilroy and one will be on Thursday night in Morgan Hill to discuss the San Jose to Merced section of the line and the two alternatives to the track alignments. Also, on Wednesday, Feb 9, there will be a Habitat Conservation Plan Community meeting in Morgan Hill at the Community Center.

**CITY COUNCIL
REPORTS**

None.

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ADJOURNMENT Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 9:19 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician

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